IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.82 OF 2005
IN
SUMMARY SUIT NO.3432 OF 2004

Almoayed Barwil Ltd. ....Plaintiff
V/s.
Oil & Natural Gas Co.Ltd. & Anr. ....Defendants

Mr.Bookwala for the Plaintiff.
Mr.S. Jagtyani with Mr.F. Lakdawala i/b Divya Shah Associates for Defendant No.1.

CORAM : S.J. VAZIFDAR, J.
DATED : 19TH OCTOBER, 2005.

P.C. :

1. The suit is filed to recover the amounts due in respect of the goods sold and delivered by the Plaintiff to Defendant No.2 on the terms and conditions contained in and/or evidenced by the invoices.

2. By a letter dated 27th April, 2002, the Plaintiff demanded the payment. Defendant No.2 by its replies pleaded inability to pay the amount allegedly due to difficulty in obtaining R.B.I. approval for remittance. Defendant No.2 promised to pay certain amounts on account. The same were however, not paid. There is no affidavit in reply by Defendant no.2.

There is no defence as far as Defendant No.2 is concerned.

3. However, the Plaintiff has no cause of action against Defendant No.1. The contract to supply the goods, was entered into between the Plaintiff and Defendant No.2 and not between the Plaintiff and Defendant No.1.

4. In the circumstances, the Summons for Judgment is made absolute and the suit is decreed as against Defendant No.2.

5. Defendant No.1 is granted unconditional leave to defend the suit. The suit is transferred as against Defendant No.1 to the list of commercial causes. Defendant No.1 to file its written statement within four weeks from today. Discovery and Inspection to be completed within six weeks thereafter. Summons for Judgment as against Defendant No.1 stands disposed of accordingly.